IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 34455 of 2006(B)

PETITIONER:

JOHNSON BABY, AGED 38 YEARS,
S/O.BABY, MATTAPPILLIL HOUSE,
KARIKODE, THODUPUZHA EAST P.O.

BY ADV. SRI.A.JAYASANKAR

RESPONDENTS:
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1. THODUPUZHA URBAN CO-OPERATIVE BANK LTD.NO.394, REPRESENTED BY ITS GENERAL MANAGER, THODUPUZHA P.O.

2. SPECIAL SALE OFFICER FOR THODUPUZHA URBAN CO-OPERATIVE BANK, OFFICE OF CO-OPERATIVE ASSISTANT REGISTRAR (GENERAL), THODUPUZHA P.O.

3. SRI.SHAHUL HAMEED,
MANGATTU HOUSE, KEERIKODE, THODUPUZHA EAST.

BY ADV. SRI.ALEXANDER JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Petitioner's Exhibits

Ext.P1: True copy of Sale Deed dated 11-8-1998

Ext.P2: True copy of Location Map prepared by the Village Officer dated 12-12-2006

Ext.P3: True copy of Auction notice dated 20-10-2006 issued by the 2nd respondent

S.SIRI JAGAN .J

W.P (C) No 34455 of 2006

Dated this the 6th day of February 2007

JUDGMENT

The petitioner purchased a portion of a large extent of property without knowing that the third respondent vendor had earlier mortgaged the property in favour of the 1st respondent bank as security for loan amount taken by him from the society. Petitioner's only contention is that since the entire property has been mortgaged and he has purchased only a portion of that property , respondent Nos. 1 and 2 may be directed to first proceed against the balance property of the defaulter excluding the property sold to the petitioner covered by Ext.P1, and only if such sale is not sufficient to satisfy the loan amount due from the 3rd respondent to the 1st respondent society, the portion purchased by him shall be proceeded against. I am satisfied that this is a very reasonable and just request . In the above circumstances this writ petition is disposed of with a direction to the first respondent to first proceed against the balance portion of the mortgaged property excluding the property covered by Ext.P1 other than the portion purchased by the petitioner from the 3rd respondent. After the amounts received on sale of the balance property of the petitioner covered by Ext.P1

is not sufficient to cover the amount due from the 3rd respondent, respondent Nos 1 and 2 would be free to proceed against the portion of the property purchased by the petitioner also.

S.SIRI JAGAN .JUDGE

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